THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.11589 OF 2006

14.09.2006

Between:

Sri Aurobindo Integral School, Inampudi Post,
Represented by its Chairman – Smt.M.Vasanta Devi

… Petitioner

AND

Chief General Manager/Expr.,
Southern Power Distribution Company of A.P. Ltd., Tirupathi
And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.11589 OF 2006

ORDER:

Sri Aurobindo Integral School, Inampudi, assails the memo dated 18.5.2006 issued by the first respondent whereby and whereunder the request of the petitioner for change of category from category II to category VII was negatived and further orders were issued to continue the petitioner under category II, on the ground that petitioner school is collecting fee from the students.

It is the case of the petitioner that the School is established by a private trust under the Societies Registration Act and is being run on no profit basis. The petitioner is also availing power supply from the respondents. By letter dated 13.7.1999, the Junior Accounts Officer of Electricity Revenue Office (ERO), Pamarru, informed the petitioner that the petitioner's Service Connection No.111 has been changed from category II to category VII. The petitioner continued to pay the electricity tariff applicable to service connections under category VII. However, the fifth respondent herein, namely, the Assistant Accounts Officer, ERO, Pamarru, by letter dated 30.1.2006 again placed the petitioner's service connection in category II purportedly in compliance with the audit objection. Hence, on 09.2.2006 and 04.3.2006, the petitioner made representations to the fifth respondent requesting to continue in category VII. The matter was ultimately taken to the second respondent, who directed the third respondent to inspect the petitioner's school and submit remarks. The third respondent conducted inspection and submitted report dated 22.3.2006 duly informing that the petitioner was utilizing the electricity only for lighting purpose. However, the second respondent by letter dated 25.3.2006 rejected the request of the petitioner for changing the category from category II to category VII. Based on such letter, the first respondent issued the impugned order.

Inter alia, it is contended that whenever there is a reclassification of consumer category for applying the tariff, a notice is required to be given to the consumer and as the fifth respondent reclassified the category without giving notice, the same is unsustainable. Reliance is placed on Condition No.3.4.1 of General Terms and Conditions of

Supply made by the Southern Power Distribution Company Limited.

A detailed counter affidavit is filed but the allegation that the impugned order was not preceded by notice is not denied. Condition 3.4.1 reads as under.

> Where a consumer has been classified under a particular category and is billed accordingly and it is subsequently found that the classification is not correct (subject to the condition that the consumer does not alter the category/purpose of usage of the premises without prior intimation to the Designated Officer of the Company), the consumer will be informed through a notice, of the proposed reclassification, duly giving him an opportunity to file any objection within a period of 15 days. The Company after due consideration of the consumer's reply if any, may alter the classification and suitably revise the bills if necessary even with retrospective effect, of 3 months in the case of domestic and agricultural categories and 6 months in the case of other categories.

A plain reading of the same would show that the consumer shall have to be informed through notice proposed reclassification. In this case, the petitioner was initially placed in category VII but the Assistant Accounts Officer, ERO, Pamarru, changed the classification from category VII to category II without notice, which cannot be sustained. On this ground alone, the impugned order is liable to be set aside.

Accordingly, the writ petition is allowed. The impugned order is set aside. It shall however open to the competent authority to issue notice to the petitioner and take necessary action in accordance with condition 3.4 of the General Terms and Conditions of Supply. There shall be no order as to costs.

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(**V.V.S.RAO, J**)

September 14, 2006
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